

REMARKS

Claims 1-54 are pending before entry of this Amendment. By way of this Amendment, claims 1, 4, and 6 have been amended, claims 57-61 have been newly added, and claims 2, 3, 5, 52, 53, and 54 have been canceled. No new matter has been added.

Pending rejections presented in the Office Action are addressed in turn below.

Rejections under 35 USC 101

Claims 47 and 48 stand rejected as directed to non-statutory subject matter under 35 USC 101. Claims 47 and 48 relate to adaptations of the claimed dispenser such that, in use, unit products are dispensed from the container to the dispensing module, or to the outlet opening, respectively, using gravity. The Office Action points out that gravity is a natural phenomenon that cannot be claimed.

Applicants respectfully submit that claims 47 and 48 are proper. The claims claim dispensers which utilize gravity to feed unit products. The claims do not claim the phenomenon of gravity itself. As such, claims 47 and 48 are not directed to unpatentable subject matter and Applicants respectfully request that the rejection be withdrawn.

Rejections under 35 USC 102/103

Claims 1-31, 47-49, and 52-54 stand rejected as anticipated under 35 USC 102 in view of Gibilisco U.S. Pat. No. 4,653,668 ("Gibilisco"). Claims 50 and 51 stand rejected as obvious under 35 USC 103(a) in view of Gibilisco. Claims 32-34, 37, and 38 stand rejected as obvious under 35 USC 103(a) in view of Gibilisco further in view of Scarrott U.S. Pat. No. 6,761,161 ("Scarrott"), and claims 35, 36, and 39-46 stand rejected as obvious under 35 USC 103(a) in view of Gibilisco, Scarrott, and further in view of Kossoff U.S. Pat. No. 5,300,042 ("Kossoff").

As amended, claim 1 combines the elements of original claims 1-3 and 5, and adds the recitation that the dispensing module is adapted to be releasably connected to the container. Support for the “releasably” recitation is provided by e.g. original page 4, lines 24-27.

The dispenser of amended claim 1 is distinguished over Gibilisco at least on the basis that the dispenser has a closure which is able to be selectively, releasably fitted to both the dispensing module and the container for closure thereof. Thus, the closure can be used to close the container when the dispensing module is not connected to the container or, when the dispensing module is connected to the container, used to close the dispensing module.

As detailed in the original application at page 7, line 30 to page 8, line 2, the features in amended claim 1 means the dispensing module can be mounted on a container whose closure can then be used to close the dispensing module. In other words, a second closure, for the dispensing module, is not necessary.

Nowhere in Gibilisco is there a teaching or suggestion of such a closure as that now recited in claim 1. The closest disclosure in Gibilisco is represented by the dispensers shown in Figures 14, 18 and 31. In these dispensers a closure (14.9; 18.9; 31.9) is releasably fitted to the dispensing module which in turn is releasably connected to a container. These closures in Gibilisco are not also adapted to be releasably fitted to the container in place of the dispensing module.

Moreover, there is no teaching or suggestion in Gibilisco, nor in Scarrott and/or Kossoff, that would have resulted in the skilled person in the art modifying the dispensers of Gibilisco to have a closure which satisfies the requirements of amended claim 1. To find otherwise can only be done through hindsight in view of amended claim 1.

In view of the above, Applicants submit that amended claim 1 is novel and non-obvious over Gibilisco, alone or in combination with Scarrott and/or Kossoff. All other pending claims are likewise novel and non-obvious by dependency from claim 1.

Added Claims

Claims 57-61 have been added. New claim 57 is based on original claim 54, other than now being framed as a claim to the dispenser, rather than the dispensing module. There is no added matter resulting from this change to original claim 54.

New claims 58-61 have been added and are supported by the description in the original application, as follows:

New claim 58 – In the illustrated embodiments the closure (lid 200) is releasably fitted to the actuator (nozzle 319 - see original page 9, lines 29-30) to close the outlet opening (upper opening 311). See original Figure 2 in conjunction with original page 7, lines 6-13.

New claim 59 - In the illustrated embodiments the closure (lid 200) prevents the actuator (nozzle 319) from being operated to actuate the dispensing mechanism (350) when fitted to the actuator. This is understood by e.g. reading original page 7, lines 13-17 and original page 11, lines 20-22.

New claim 60 – In the illustrated embodiments the closure (lid 200) is adapted to be releasably fitted to the actuator (nozzle 319) for closing the outlet opening (upper opening 311) and to prevent displacement of the actuator into the dispensing module (300) to prevent actuation of the dispensing mechanism (350). See Figure 2 in conjunction with original page 7, lines 6-17 and original page 11, lines 20-22.

New claim 61 - In the illustrated embodiments the outlet opening (upper opening 311) is provided in the actuator (nozzle 319). See original page 6, lines 28-30.

Correction of Drawings

Figure 5 (drawing page 5/18) and Figures 10A-10C (drawing page 12/18) have been amended by submission of replacement pages attached hereto. In each of the Figures, item identifiers 367b have been changed to 367 to

correspond to the specification. Support for this change is provided in the originally-filed specification e.g. pages 14-17.

Amendment to the Specification

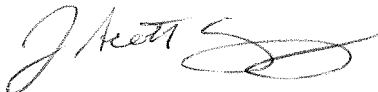
The specification has been amended to identify the "gap" as "367a". This change was made to match the originally-filed drawings, e.g. Figure 10C, and to avoid confusion with a "switch" that is referred to elsewhere in the specification as "367". Applicants submit that identification of the "gap" and "switch" were self-evident from the originally-filed specification, and that corrective changes to the specification and drawings are typographical in nature. No new matter has been added.

Conclusion

Applicants assert that the instant Amendment places the application in a condition for allowance, and such allowance is respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge any fees or credit any overpayment, particularly including any fees required under 37 CFR Sect 1.16 or 1.17, and any necessary extension of time fees, to deposit Account No. 07-1392. The Examiner is invited to contact the undersigned at (919) 483-8160, to discuss this case, if desired.

Respectfully submitted,



J. Scott Young
Attorney for Applicants
Reg. No. 45,582

Date: April 18 2008
GlaxoSmithKline Inc.
Five Moore Drive, PO Box 13398
Research Triangle Park, NC 27709
(919) 483-8160
fax: (919) 483-7988
Scott.S.Young@GSK.com